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10/594,440	09/26/2006	Thierry Blanche	BLANCHE=1	6853
1444	7590	12/16/2009	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C.			EDWARDS JR, TIMOTHY	
624 NINTH STREET, NW				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,440	<b>Applicant(s)</b> BLANCHE ET AL.
	<b>Examiner</b> Timothy Edwards, Jr.	<b>Art Unit</b> 2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 26 August 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s)       is/are withdrawn from consideration.

5) Claim(s)       is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s)       is/are objected to.

8) Claim(s)       are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on       is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No.      .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date      

4) Interview Summary (PTO-413) Paper No(s)/Mail Date      

5) Notice of Informal Patent Application

6) Other:

**DETAILED ACTION**

Applicant failure to traverse the assertions of Official Notice, common knowledge and well-known in the art statements in Office action dated march 27, 2009 is taken to be admitted prior art. See MPEP 2144.03.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 19-22 recites the limitation "wherein the reading and writing of information" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Response to Arguments***

1. Applicant's arguments filed August 26, 2009 have been fully considered but they are not persuasive. Examiner will address arguments.

**Applicant's Arguments:**

- I) REMARKS, page 8, paragraph 3, last line Carter avoid using any mark relative to the pipe. The limitations cited in the REMARKS will be addressed in the body of this Action.

II) REMARKS, page 9, paragraphs 1 and 2, Lara does not teach how to localize anomalies for repair from the outside of the pipe.

III) REMARKS, page 11, paragraph 2 to page 12 recite the present application teaching.

**Examiner's Response:**

Response to part (I) above, as pointed out by applicant on page 8 of his REMARKS the use of time is critical in localizing an anomaly in the Carter system. Carter uses the marker station time and the pig's time of anomaly detection to locate the anomaly external of the pipe (see col 4, lines 58-62 and fig 3). Carter teaches the use of a marker to precisely locate an anomaly. Figure 3 shows the detection of the marker station, the girth weld, and the anomaly. Carter teaches the importance in knowing the location of the marker stations and the girth weld when trying to locate an anomaly (see col 1, lines 34-47). Therefore, it would have been obvious to one of ordinary skill in the art the Carter system uses known marks on the pipeline to locate anomalies on the external side of the pipeline.

Response to part (II) above, Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a

motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA) 1969. In this case, Carter taught the detection of known marks on a pipeline (see fig 3). Lara reference was used to further show the use of these marks for counting is also well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to use in combination what each individual reference taught to solve a problem pertinent to the user because each reference teaches the recognition of girth weld and marker associated with a pipeline.

Response to part (III) above, applicant argues that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the transponder provides an outside beacon to the repair apparatus) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner position is the previously cited references remain pertinent to the applicant's claims. Examiner maintains Office Action dated March 27, 2009.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al US 3,754,275 (previously recited) and further in view of Lara US 4,717,875 (previously recited).

Considering (~~amended~~) claim 1, Carter discloses a pipeline inspection method comprising 1) detecting anomalies beforehand by a device moving inside an immersed hollow structure (see col 4, lines 55-57); 2) marks at regular intervals accessible from inside and the outside of the immersed hollow structure (see col 1, lines 54-64, col 2, lines 3-9 and fig 3); 3) except Carter does no specifically recite counting from an origin marks located at regular intervals. However, Carter teaches the method counting the number of girth welds on a record, may be used to estimation actual distance (see col 1, lines 41-47). Carter teaches establishing an origin point to start an inspection for a device moving inside an immersed hollow structure (see col 4, lines 34-36). Carter also teaches counting the number of welds passed by an instrumented moving in a hollow structure to locate anomalies in a pipeline (see col 5, line 58 to col 6, line 8). Lara teaches counting the number of welds passed by an instrumented moving in a hollow structure and the measured distant from a point of origin by an accelerometer will give

the location of an anomaly using the counted marks (see col 2, lines 56-68). Lara also, discloses the use of marker at a weld joint (see col 6, lines 36-46). Therefore, it would have been obvious to one of ordinary skill in the art to use the method of counting the locations of a mark as taught by Lara in the Carter system because both systems recognizes the method of counting marks to locate an anomaly is well known in the art. Also, both systems are concern with the detection of anomalies in a pipeline, the use of markers and girth weld to assist in this determination; **a)** from an origin a marker accessible on the outside of an immersed hollow structure (see col 7, lines 19-22 and lines 43-50, fig 1, marker station, item 10 and fig 3). The limitation of counting from an origin is interpreted and rejected as stated in part **(3)** above; **b)** positioning a transponder module on the mark (see col 1, lines 58-64); **c)** identifying the transponder module by an identification code (see col 1, line 65 to col 2, line 1); **d)** determining the number of marks separating an anomalies and the identified transponder module (see col 1, lines 41-47, col 2, lines 3-9, col 4, lines 58-62, col 5, lines 53-57 and fig 3).

Considering claims 2, 15 Carter discloses the limitation of this claim (see col 7, lines 51-59 fig 1, item 10).

Considering claim 3, Carter discloses the marks are located at regular interval accessible inside and outside of the immersed hollow structure are weld connection of the hollow structure (see col 1, lines 41-47 and fig 3).

Considering claim 4, Carter discloses the limitation of this claim (see col 5, line 57 to col 6, line 8).

Considering claim 5, Carter discloses the limitation of this claim (see col 3, lines 58-68).

Considering claim 6, Carter does not specifically recite the frequency at which the transponders transmit its identification code or at which power level. One of ordinary skill in the art readily recognizes both of this transmission parameter is governed by the receiver and the distance of the transmission. Obvious to choose this parameter to accomplish the task of receiving the data.

Considering claim 7, Carter discloses the limitation of this claim (see col 3, lines 65-68).

Considering claim 8, the limitations of this claim are interpreted and rejected as stated in claim 1.

Considering claims 9-12, Carter does not specifically recite the means for positioning the transponder module. Carter teaches the use of his system in an under water pipeline (see col 7, lines 51-55). However, one of ordinary skill in the art readily recognizes device maybe attached to the pipeline using any known method of attachment. Examiner takes official notice the methods of attaching a device to a pipeline as expressed in the limitations of these claims are well known in the art.

Considering claim 13, Carter discloses the limitation of this claim (see col 3, lines 65-68).

3. Claims 14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter et al and Lara as applied to claim 8 above, and further in view of Casey et al US 6,965,320.

Considering claims 14, 16-18, Carter does not specifically recite writing data to his marker station before immersion. Carter teaches the use of a marker station comprising a modulator and a transmitter. The modulator generates a unique code for transmission to a base station. This suggests the modulator maybe preprogrammed. Carter also teaches the use of his system in an immersed environment (see claim 2). Casey teaches a monitor station being preprogrammed before immersion (see col 3, lines 38-42 and fig 3). Therefore, it would have been obvious to one of ordinary skill in the art to preprogram data into the stations of Carter as taught by Casey because Carter suggests preprogramming. Both systems are concern with the transmission of data to a remote station.

Considering claims 19-25, Carter does not specifically recite the reading and writing of information is performed *in situ*, in an immersed environment. Casey teaches a monitor station being programmed while in an immersed environment (see col 3, lines 38-39, col

8, lines 26-29 and fig 3). Therefore, it would have been obvious to one of ordinary skill in the art it would have been an improvement in the Carter system to have the ability to program data into the stations as taught by Casey because being able to program a device would save the cost in having to visit a device which is located in a vast area. Both systems are concerned with receiving data indicating the passing of a moving device within a pipeline, also the detecting and locating anomalies in a pipeline.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*If the claimed invention is amended, Applicant is respectfully requested to indicate the portion(s) of the specification, which dictate(s) the structure/description*

*relied upon to assist the Examiner in proper interpretation of the amended language and also to verify and ascertain the metes and bounds of the claimed invention.*

Any inquiry concerning this communication should be directed to Examiner Timothy Edwards, Jr. at telephone number (571) 272-3067. The examiner can normally be reached on Monday-Thursday, 8:00 a.m.-6:00 p.m. The examiner cannot be reached on Fridays.

If attempt to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Brian Zimmerman, can be reached at (571) 272-3059.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-4700, Mon-Fri., 8:30 a.m.-5:00 p.m.

Any response to this action should be fax to:

(571) 273-8300 (for formal communications intended for entry).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov> or contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Timothy Edwards, Jr./  
Primary Examiner, Art Unit 2612  
December 16, 2009